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MEASURES TO ELIMINATE INTERNATIONAL TERRORISM

Report of the Working Group

Chairman: Mr. Philippe KIRSCH (Canada)

I. INTRODUCTION

1. The General Assembly, by its resolution 51/210 of 17 December 1996, decided to establish an Ad Hoc Committee, open to all States Members of the United Nations or members of specialized agencies or of the International Atomic Energy Agency, to elaborate, inter alia, an international convention for the suppression of terrorist bombings. The Assembly recommended that the work of the Ad Hoc Committee, which held its first session from 24 February to 7 March 1997, continue during the fifty-second session of the Assembly from 22 September to 3 October 1997 in the framework of a working group of the Sixth Committee.

2. In accordance with that recommendation, the Sixth Committee, at its 2nd meeting, on 22 September 1997, established such a Working Group and elected Mr. Philippe Kirsch (Canada) as its Chairman.

3. Pursuant to the decision taken by the Sixth Committee at its 2nd meeting, the Working Group was open to all States Members of the United Nations or members of specialized agencies or of the International Atomic Energy Agency.

4. The Working Group held 17 meetings, from 22 September to 3 October 1997.

5. The Working Group had before it the report of the Ad Hoc Committee on the work of its first session,[1] which included revised texts of articles 1 to 12 ter of the draft convention proposed by the Bureau on the basis of the discussions in the informal consultations within the Ad Hoc Committee. Those texts were

reproduced together with the preamble and articles 13 to 17 of the original draft convention contained in the preliminary working document submitted by France on behalf of the group of seven major industrialized countries and the Russian Federation.[2]

6. The Working Group also had before it a number of oral and written proposals submitted during its work. The texts of the written proposals are contained in annex II to the present report.

II. PROCEEDINGS OF THE WORKING GROUP

7. Discussions were held both in the Working Group and in informal consultations. On the basis of those discussions, a series of draft texts were prepared and revised by a group of Friends of the Chairman composed of the members of the former Bureau of the Ad Hoc Committee Established by the General Assembly resolution 51/210 of 17 December 1996 and some other delegations for consideration by the Working Group (A/C.6/52/WG.1/CRP.31 and Add.1 and A/C.6/52/WG.1/CRP.45 and Rev.1 and 2).

III. RECOMMENDATIONS OF THE WORKING GROUP

8. At its 17th meeting, on 3 October 1997, the Working Group decided to recommend to the Sixth Committee the consideration of the text contained in annex I to the present report.

Notes

[1] Official Records of the General Assembly, Fifty-second Session, Supplement No. 37 (A/52/37).

[2] Ibid., annex I.A.

ANNEX I

Revised texts of the preamble and articles 1 to 2, and 4 to 17 recommended by the Working Group established by General Assembly resolution 51/210 of 17 December 1996 to the Sixth Committee for consideration

The States Parties to this Convention,

Having in mind the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of good-neighbourliness and friendly relations and cooperation among States,

Deeply concerned about the worldwide escalation of acts of terrorism in all its forms and manifestations,

Recalling the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations of 24 October 1995,[1]

Recalling also the Declaration on Measures to Eliminate International Terrorism, annexed to General Assembly resolution 49/60 of 9 December 1994, in which, inter alia, "[t]he States Members of the United Nations solemnly reaffirm their unequivocal condemnation of all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomever committed, including those which jeopardize the friendly relations among States and peoples and threaten the territorial integrity and security of States",

Noting that the Declaration also encouraged States "to review urgently the scope of the existing international legal provisions on the prevention, repression and elimination of terrorism in all its forms and manifestations, with the aim of ensuring that there is a comprehensive legal framework covering all aspects of the matter",

Recalling further General Assembly resolution 51/210 of 17 December 1996 and the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, annexed thereto,

Noting also that terrorist attacks by means of explosives or other lethal devices have become increasingly widespread,

Noting further that existing multilateral legal provisions do not adequately address these attacks,

Being convinced of the urgent need to enhance international cooperation between States in devising and adopting effective and practical measures for the prevention of such acts of terrorism, and for the prosecution and punishment of their perpetrators,

Considering that the occurrence of such acts is a matter of grave concern to the international community as a whole,

Have agreed as follows:

Article 1

For the purposes of this Convention:

1. 'State or government facility' includes any permanent or temporary facility or conveyance that is used or occupied by representatives of a State, members of Government, the legislature or the judiciary or by officials or employees of a State or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties.

2. 'Infrastructure facility' means any publicly or privately owned facility providing or distributing services for the benefit of the public, such as water, sewage, energy, fuel or communications.

3. 'Explosive or other lethal device' means:

(a) An explosive or incendiary weapon or device that is designed, or has the capability, to cause death, serious bodily injury or substantial material damage; or

(b) A weapon or device that is designed, or has the capability, to cause death, serious bodily injury or substantial material damage through the release, dissemination or impact of toxic chemicals, biological agents or toxins or similar substances or radiation or radioactive material.

5. 'Place of public use' means those parts of any building, land, street, waterway or other location that are accessible or open to members of the public, whether continuously, periodically or occasionally, and encompasses any commercial, business, cultural, historical, educational, religious, governmental, entertainment, recreational or similar place that is so accessible or open to the public.

6. 'Public transportation system' means all facilities, conveyances and instrumentalities, whether publicly or privately owned, that are used in or for publicly available services for the transportation of persons or cargo.

Article 2

1. Any person commits an offence within the meaning of this Convention if that person unlawfully and intentionally delivers, places, discharges or detonates an explosive or other lethal device in, into or against a place of public use, a State or government facility, a public transportation system or an infrastructure facility:

(a) With the intent to cause death or serious bodily injury; or

(b) With the intent to cause extensive destruction of such a place, facility or system, where such destruction results in or is likely to result in major economic loss.

2. Any person also commits an offence if that person attempts to commit an offence as set forth in paragraph 1.

3. Any person also commits an offence if that person:

(a) Participates as an accomplice in an offence as set forth in paragraph 1 or 2; or

(b) Organizes or directs others to commit an offence as set forth in paragraph 1 or 2; or

(b) bis. In any other way contributes to the commission of one or more offences as set forth in paragraph 1 or 2 by a group of persons acting with a common purpose; such contribution shall be intentional and either be made with the aim of furthering the general criminal activity or purpose of the group or be made in the knowledge of the intention of the group to commit the offence or offences concerned.

Article 2 bis

This Convention shall not apply where the offence is committed within a single State, the alleged offender and the victims are nationals of that State, the alleged offender is found in the territory of that State and no other State has a basis under article 5, paragraph 1, or article 5, paragraph 2, of this Convention to exercise jurisdiction, except that the provisions of articles 9 to 11 shall, as appropriate, apply in those cases.

Article 3

...

Article 4

Each State Party shall adopt such measures as may be necessary:

(a) To establish as criminal offences under its domestic law the offences set forth in article 2 of this Convention;

(b) To make those offences punishable by appropriate penalties which take into account the grave nature of those offences.

Article 4 bis

Each State Party shall adopt such measures as may be necessary, including, where appropriate, domestic legislation, to ensure that criminal acts within the

scope of this Convention, in particular where they are intended or calculated to provoke a state of terror in the general public or in a group of persons or particular persons, are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature and are punished by penalties consistent with their grave nature.

Article 5

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 when:

(a) The offence is committed in the territory of that State; or

(b) The offence is committed on board a vessel flying the flag of that State or an aircraft which is registered under the laws of that State at the time the offence is committed; or

(c) The offence is committed by a national of that State.

2. A State Party may also establish its jurisdiction over any such offence when:

(a) The offence is committed against a national of that State; or

(a) bis The offence is committed against a State or government facility of that State abroad, including an embassy or other diplomatic or consular premises of that State; or

(b) The offence is committed by a stateless person who has his or her habitual residence in the territory of that State; or

(c) The offence is committed in an attempt to compel that State to do or abstain from doing any act; or

(c) bis The offence is committed on board an aircraft which is operated by the Government of that State.

2 bis. Upon ratifying, accepting, approving or acceding to this Convention, each State Party shall notify the Secretary-General of the United Nations of the jurisdiction it has established in accordance with paragraph 2 under its domestic law. Should any change take place, the State Party concerned shall immediately notify the Secretary-General.

3. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 in cases where the alleged offender is present in its territory and it does not extradite that person to any of the States Parties which have established their jurisdiction in accordance with paragraph 1 or 2.

4. This Convention does not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

Article 6

0. Upon receiving information that a person who has committed or who is alleged to have committed an offence as set forth in article 2 may be present in its territory, the State Party concerned shall take such measures as may be necessary under its domestic law to investigate the facts contained in the information.

1. Upon being satisfied that the circumstances so warrant, the State Party in whose territory the offender or alleged offender is present shall take the appropriate measures under its domestic law so as to ensure that person's presence for the purpose of prosecution or extradition.

2. Any person regarding whom the measures referred to in paragraph 1 are being taken shall be entitled to:

(a) Communicate without delay with the nearest appropriate representative of the State of which that person is a national or which is otherwise entitled to protect that person's rights or, if that person is a stateless person, the State in the territory of which that person habitually resides;

(b) Be visited by a representative of that State;

(c) Be informed of that person's rights under subparagraphs (a) and (b).

3. The rights referred to in paragraph 2 shall be exercised in conformity with the laws and regulations of the State in the territory of which the offender or alleged offender is present, subject to the provision that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under paragraph 2 are intended.

3 bis. The provisions of paragraphs 2 and 3 shall be without prejudice to the right of any State Party having a claim to jurisdiction in accordance with article 5, subparagraph 1 (c) or 2 (b), to invite the International Committee of the Red Cross to communicate with and visit the alleged offender.

4. When a State Party, pursuant to this article, has taken a person into custody, it shall immediately notify, directly or through the Secretary-General of the United Nations, the States Parties which have established jurisdiction in accordance with article 5, paragraphs 1 and 2, and, if it considers it advisable, any other interested States Parties, of the fact that such person is in custody and of the circumstances which warrant that person's detention. The State which makes the investigation contemplated in paragraph 0 shall promptly inform the said States Parties of its findings and shall indicate whether it intends to exercise jurisdiction.

Article 7

1. The State Party in the territory of which the alleged offender is present shall, in cases to which article 5 applies, if it does not extradite that person, be obliged, without exception whatsoever and whether or not the offence

was committed in its territory, to submit the case without undue delay to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any other offence of a grave nature under the law of that State.

2. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State to serve the sentence imposed as a result of the trial or proceeding for which the extradition or surrender of the person was sought, and this State and the State seeking the extradition of the person agree with this option and other terms they may deem appropriate, such a conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 1.

Article 8

1. The offences set forth in article 2 shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the States Parties before the entry into force of this Convention. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be subsequently concluded between them.

2. When a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, the requested State Party may, at its option, consider this Convention as a legal basis for extradition in respect of the offences set forth in article 2. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in article 2 as extraditable offences between themselves, subject to the conditions provided by the law of the requested State.

4. If necessary, the offences set forth in article 2 shall be treated, for the purposes of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territory of the States that have established jurisdiction in accordance with article 5, paragraphs 1 and 2.

5. The provisions of all extradition treaties and arrangements between States Parties with regard to offences set forth in article 2 shall be deemed to be modified as between State Parties to the extent that they are incompatible with this Convention.

Article 9

1. States Parties shall afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings brought

in respect of the offences set forth in article 2, including assistance in obtaining evidence at their disposal necessary for the proceedings.

2. States Parties shall carry out their obligations under paragraph 1 in conformity with any treaties or other arrangements on mutual legal assistance that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their domestic law.

Article 9 bis

None of the offences set forth in article 2 shall be regarded, for the purposes of extradition or mutual legal assistance, as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

Article 9 ter

Nothing in this Convention shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance, if the requested State Party has substantial grounds for believing that the request for extradition for offences set forth in article 2 or for mutual legal assistance with respect to such offences has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin or political opinion or that compliance with the request would cause prejudice to that person's position for any of these reasons.

Article 10

1. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of testimony, identification or otherwise providing assistance in obtaining evidence for the investigation or prosecution of offences under this Convention may be transferred if the following conditions are met:

(a) The person freely gives his or her informed consent; and

(b) The competent authorities of both States agree, subject to such conditions as those States may deem appropriate.

2. For the purposes of this article:

(a) The State to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State from which the person was transferred;

(b) The State to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States;

(c) The State to which the person is transferred shall not require the State from which the person was transferred to initiate extradition proceedings for the return of the person;

(d) The person transferred shall receive credit for service of the sentence being served in the State from which he was transferred for time spent in the custody of the State to which he was transferred.

3. Unless the State Party from which a person is to be transferred in accordance with this article so agrees, that person, whatever his or her nationality, shall not be prosecuted or detained or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts or convictions anterior to his or her departure from the territory of the State from which such person was transferred.

Article 10 bis

Any person who is taken into custody or regarding whom any other measures are taken or proceedings are carried out pursuant to this Convention shall be guaranteed fair treatment, including enjoyment of all rights and guarantees in conformity with the law of the State in the territory of which that person is present and applicable provisions of international law, including international law of human rights.

Article 11

States Parties shall cooperate in the prevention of the offences set forth in article 2, particularly:

(a) By taking all practicable measures, including, if necessary, adapting their domestic legislation, to prevent and counter preparations in their respective territories for the commission of those offences within or outside their territories, including measures to prohibit in their territories illegal activities of persons, groups and organizations that encourage, instigate, organize, knowingly finance or engage in the perpetration of offences as set forth in article 2;

(b) By exchanging accurate and verified information in accordance with their national law, and coordinating administrative and other measures taken as appropriate to prevent the commission of offences as set forth in article 2;

(c) Where appropriate, through research and development regarding methods of detection of explosives and other harmful substances that can cause death or bodily injury, consultations on the development of standards for marking

explosives in order to identify their origin in post-blast investigations, exchange of information on preventive measures, cooperation and transfer of technology, equipment and related materials.

Article 12

The State Party where the alleged offender is prosecuted shall, in accordance with its domestic law or applicable procedures, communicate the final outcome of the proceedings to the Secretary-General of the United Nations, who shall transmit the information to the other States Parties.

Article 12 bis

The Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.

Article 12 bis bis

Nothing in this Convention entitles a State Party to undertake in the territory of another State Party the exercise of jurisdiction and performance of functions which are exclusively reserved for the authorities of that other State Party by its domestic law.

Article 12 ter

Nothing in this Convention shall affect other rights and obligations under international law, in particular the purposes and principles of the Charter of the United Nations and international humanitarian law.

Article 13

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation within a reasonable time shall, at the request of one of them, be submitted to arbitration. If, within six months from the date of the request for arbitration, the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice, by application, in conformity with the Statute of the Court.

2. Each State may at the time of signature, ratification, acceptance or approval of this Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by paragraph 1 of this article with respect to any State Party which has made such a reservation.

3. Any State which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 14

1. This Convention shall be open for signature by all States from [date] until [date] at United Nations Headquarters in New York.

2. This Convention is subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations.

3. This Convention shall be open to accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 15

1. This Convention shall enter into force on the thirtieth day following the date of the deposit of the twenty-second instrument of ratification, acceptance, approval or accession with the Secretary-General of the United Nations.

2. For each State ratifying, accepting, approving or acceding to the Convention after the deposit of the twenty-second instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification, acceptance, approval or accession.

Article 16

1. Any State Party may denounce this Convention by written notification to the Secretary-General of the United Nations.

2. Denunciation shall take effect one year following the date on which notification is received by the Secretary-General of the United Nations.

Article 17

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention, opened for signature at New York on [date].

Notes

[1] General Assembly resolution 50/6.

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1. PROPOSALS OF THE UNITED STATES OF AMERICA (A/C.6/52/WG.1/CRP.1)

1. Definition of "State or Government Facility" (draft article 1 (1), A/52/37, annex I.A)

The United States believes that the definition of "State or Government facility" in article 1, paragraph 1, of A/AC.252/1997/CRP.6/Add.1 should be drafted to encompass facilities used by government and other officials on a regular or continuing basis, and not facilities used on an occasional basis, e.g., private locations that are not used regularly or on a continuing basis by public officials. To address this issue, we suggest the following amendment of draft article 1 (1):

> "'State or Government facility' includes any permanent or temporary facility or conveyance that is used or occupied on a regular or continuing basis by representatives of a State, members of Government, the legislature or the judiciary or by civilian or military officials or employees of a state or other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties."

2. Definition of "infrastructure facility" (draft article 1 (2))

The United States delegation notes that the current definition of "Infrastructure facility" in draft article 1, paragraph 2, of A/AC.252/1997/CRP.6/Add.1 is inadvertently broad, in that the word "services" is not necessarily limited to essential services provided or distributed to the public. We also suggest replacing the word "including" in the definition with the phrase "such as" to make the list more restrictive. To clarify the definition, the United States delegation suggests the following:

> "'Infrastructure facility' includes any publicly or privately owned facility providing or distributing essential services for the benefit of the public, ~~including~~ such as water, sewage, energy, fuel or communications."

3. Definition of "place of public use" (draft article 1 (5))

The United States delegation notes that the current definition of "place of public use" in draft article 1, paragraph 5, of A/AC.252/1997/CRP.6/Add.1 is extremely broad and includes a great many locations, including sections of buildings and other locations that are not necessarily open to the public. We believe that most delegations intend to tie the offence to the endangerment of the public in those places where the public is likely to go, and not all parts of such buildings or locations. We also propose deleting the phrase "in whole or in part" in the current definition as unnecessary and confusing, particularly if the earlier part of the definition is clarified with the addition of the words "those parts of". The United States delegation therefore suggests that article 1 (5) be amended as follows:

"'Place of public use' includes those parts of any building, land, street, waterway, or other location that are accessible or open, ~~in whole or in part,~~ to members of the public, whether continuously, periodically or occasionally, and encompasses any commercial, business, cultural, historical, educational, religious, governmental, entertainment, recreational or similar place that are so accessible or open to the public."

2. PROPOSALS SUBMITTED BY THE UNITED STATES OF AMERICA (A/C.6/52/WG.1/CRP.2)

Article 2 (document A/52/37, annex I.A)

Amend the text of paragraph 1 (b) as follows:

"1. (b) With the intent to cause extensive destruction of such a place, system or facility; or"

3. PROPOSAL SUBMITTED BY NEW ZEALAND (A/C.6/52/WG.1/CRP.3)

Article 3 (document A/52/37, annex I.A)

Amend the text of article 3 as follows:

"This Convention shall not apply to the delivery, placement, discharge or detonation of an explosive device, incendiary device or lethal device by the military forces of a State in connection with their official duties and in accordance with international law."

4. PROPOSALS SUBMITTED BY THE SYRIAN ARAB REPUBLIC (A/C.6/52/WG.1/CRP.4)

Articles 1 and 3 (A/52/37, annex I.A)

1. Give a title to all the articles.

2. Article 1, paragraph 1:

(a) Add a definition of terrorist bombings;

(b) Add definitions of an explosive device, an incendiary device and a bomb;

(c) Not applicable to the English version;

(d) In order to make it clear that the presence and location of the government facility must be in accordance with law, add the phrase "whose presence is lawful" after "any permanent or temporary facility ...";

(e) Delete the phrase "or military officials ... of a State";

(f) Insert the word "lawful" before "official duties".

3. Article 1, paragraph 3: Broaden the definition of "lethal device" to include incendiary substances whose use does not require any special device.

4. Article 1, paragraph 5: Add the expression "or sea or air route" after "waterway", since many incidents in which an explosion occurs happen at sea or in the air, and can be mentioned here notwithstanding the existence of specific international agreements.

5. Article 3:

(a) After "military forces of a State", add the phrase "acting within their territory or where their presence is lawful". In the phrase "in connection with their official duties", insert the word "lawful" before "official duties";

(b) Add a new paragraph which reads as follows:

"Moreover, the present Convention shall not apply to armed conflicts as defined in the Geneva Conventions of 1949 and the Protocols thereto, including armed conflicts, mentioned in article 1, paragraph 4, of Additional Protocol I of 1977, in which peoples are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of self-determination, as enshrined in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations."

Source: International Convention against the Taking of Hostages

5. PROPOSALS SUBMITTED BY GERMANY (A/C.6/52/WG.1/CRP.5)

Article 2, paragraph 1 (document A/52/37, annex I.A)

1. Germany, like other States represented here, would like to see State or government facilities abroad covered by the Convention.

2. We would like to see the scope of the Convention limited to attacks of a really serious nature against human life and limb as well as extensive destruction of public and private property. We would like to see the wording of article 2, paragraph 1 (b), reworded to reflect this with the words "of significant value" - inserted after "public or private property". The phrase "likely to cause serious disruption of economic life" should be deleted because this wording is too vague to be incorporated in domestic law. We would prefer here a reference to installations and establishments of importance to the community.

The intention to create a 'state of terror among the general public' (art. 2, para. 1 (d)) is common to all terrorist attacks. In fact it is one of the raisons d'être for terrorism and as a general consideration should be incorporated in the preamble. It is misplaced in article 2.

3. Germany attaches great importance to the exclusion of political motivation as a legitimate excuse for the commission of terrorist bombings. This should however be balanced by an article protecting suspects from extradition if the requested State has substantial grounds for believing that the request for extradition has been made for the purpose of prosecuting a person on account of his race, religion, nationality or political opinion. In any case, a State should always have a choice between extradition and a trial in a national court. The principle 'aut dedere aut judicare' should apply without exception, with article 2 providing for a narrow scope for the application of the Convention; there is no reason not to maintain article 8, paragraph 7, of the draft Convention intact thus denying the perpetrators of terrorist atrocities the excuse of a political motivation.

6. PROPOSALS SUBMITTED BY CHINA (A/C.6/52/WG.1/CRP.6)

Article 2, paragraph 1 (document A/52/37, annex I.A)

The first paragraph of article 2:

1. After 'any person commits an offence within the meaning of this Convention if that person' insert the following: 'for a terrorist purpose'.

2. Delete 'or lethal device'.

3. Delete 'and intentionally'.

The paragraph would then read:

> '1. Any person commits an offence within the meaning of this Convention if that person, for a terrorist purpose, unlawfully delivers, places, discharges or detonates an explosive device, incendiary device in, into or affecting a place of public use, a government or other public facility, a public transportation system or an infrastructure facility: ...'

7. PROPOSAL SUBMITTED BY CHINA (A/C.6/52/WG.1/CRP.7)

Preamble (document A/52/37, annex I.A)

Seventh preambular paragraph:

Add the following to the wording to the seventh preambular paragraph:

"On the basis of the fundamental principles of international law of mutual respect for sovereignty and territorial integrity and non-interference in each other's internal affairs".

The paragraph would then read:

"Being convinced of the urgent need to enhance international cooperation between States in devising and adopting effective and practical measure for the prevention of such acts of terrorism, and for the prosecution and punishment of their perpetrators on the basis of the fundamental principles of international law of mutual respect for sovereignty and territory integrity, non-interference in each other's internal affairs".

8. PROPOSALS SUBMITTED BY PAKISTAN (A/C.6/52/WG.1/CRP.8)

Articles 7 and 8 (document A/52/37, annex I.A)

Article 7

At the end of paragraph 2 of article 7, may be added:

"provided if a person is being tried or is undergoing a sentence in the territory of a State Party whose law does not permit extradition under such circumstances, he shall not be extradited."

Article 8

At the end of paragraph 1, article 8, please add:

"subject to the law of the requested State".

We also propose addition of the words "subject to the law of the requested State" at the beginning of paragraph 4. The same wording "subject to the law of the requested State" may be added at the end of paragraph 5 of the draft article.

9. PROPOSALS SUBMITTED BY THE SYRIAN ARAB REPUBLIC (A/C.6/52/WG.1/CRP.9)

Preamble (document A/52/37, annex I.A)

1. Add the following new paragraph:

"Recalling the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations,"

(General Assembly resolution 50/6 of 24 October 1995)

2. In the second paragraph, insert the words "and manifestations" after "its forms".

3. Third paragraph:

(a) After "Recalling", insert the phrase "resolution 46/51 of 9 December 1991 on measures to eliminate international terrorism";

(b) After "December 1994," insert a reference to General Assembly resolution 51/210.

4. Add the following new paragraph:

"Recognizing, in particular, that everyone has the right to life, liberty and security of person, as provided in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights,".

(Source: Preamble to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation)

5. Add the following new paragraph, which would be the fifth preambular paragraph:

"Recalling General Assembly resolution 40/61 of 9 December 1985 in which all States, unilaterally and in cooperation with other States, as well as relevant United Nations organs, are urged to contribute to the progressive elimination of the causes underlying international terrorism and to pay special attention to all situations, including colonialism, racism and situations involving mass and flagrant violations of human rights and fundamental freedoms and those involving alien occupation, that may give rise to international terrorism and may endanger international peace and security,".

(Source: Seventh preambular paragraph of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation)

6. Add the following new paragraph, which would be the ninth preambular paragraph:

"Reaffirming the principle of equal rights and self-determination of peoples established in the Charter of the United Nations and in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, as well as in other relevant General Assembly resolutions,".

(Source: Third preambular paragraph of the International Convention against the Taking of Hostages)

10. PROPOSALS SUBMITTED BY THE SYRIAN ARAB REPUBLIC (A/C.6/52/WG.1/CRP.10)

Articles 4 and 5 (document A/52/37, annex I.A)

Article 4, paragraph (a)

Insert after the words "the offences", the phrase "within the meaning of this Convention".

Article 5

1. Insert the word "legal" before the word "measures" in the first line of the text.

2. Add to paragraph 1, after subparagraph (a), a new subparagraph reading as follows:

"The offence is committed on or in a government facility of that State, such as an embassy or other diplomatic or consular premises."

11. PROPOSALS SUBMITTED BY BELGIUM (A/C.6/52/WG.1/CRP.11)

Preamble and article 1, paragraph 4, article 3, article 5, paragraph 2 bis, article 10 bis and article 12 ter (document A/52/37, annex I.A)

Preamble

Belgium proposes that the following provisions be inserted after the second paragraph of the preamble:

"Considering that it is necessary to guarantee respect for fundamental human rights in order to contribute to the political settlement of political, ethno-national, social or other conflicts and to ensure that such conflicts do not serve as an excuse for acts of terrorism which may be supported by a segment of the population,

"Recalling that it is essential to ensure respect for human rights in combating terrorism,".

Article 1, paragraph 4, and article 3

Belgium proposes that article 3 of the draft convention be replaced with the following text:

"This Convention shall not apply:

1. to the delivery, placement, discharge or detonation of an explosive device or other lethal device by a State party acting in

accordance with national law and with the international law which is binding on that State; or

2. to the delivery, placement, discharge or detonation of an explosive device or other lethal device within the scope of application of article 2 common to the four Geneva Conventions of 12 August 1949 or of the respective articles 1 of Protocol I and Protocol II Additional to these Conventions, provided that such act does not violate any obligation under international humanitarian law."

and that paragraph 4 of article 1 be deleted.

Article 5, paragraph 2 bis

"Upon ratifying or acceding to the Convention, each State party shall indicate to the Secretary-General of the United Nations the extent to which it has established its jurisdiction in accordance with paragraph 2. Should any change take place, the State party concerned shall immediately notify the Secretary-General."

Article 10 bis

"Any person who is taken into custody or regarding whom any other measures are taken or proceedings are carried out pursuant to this Convention shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all rights and guarantees in conformity with the law of the State in the territory of which that person is present and applicable provisions of international law, including international law of human rights." (changes are underlined)

Article 12 ter

"Nothing in this Convention shall affect other rights and obligations under international law, in particular international humanitarian law."

12. PROPOSAL SUBMITTED BY FINLAND (A/C.6/52/WG.1/CRP.12)

Article 2, paragraph 3 (document A/52/37, annex I.A)

Paragraph 3

"(...)

"(b) bis. In any other way contributes to the commission of one or more offences as set forth in paragraph 1 or 2 by a group of persons acting with a common purpose; such contribution shall be intentional and made having knowledge either of the purpose and the general criminal activity of the group or of the intention of the group to commit the offence or offences concerned."

13. PROPOSAL SUBMITTED BY AUSTRALIA (A/C.6/52/WG.1/CRP.13)

New article 2 bis

"This Convention shall not apply where the offense is committed within a single State, the alleged offender and the victims are nationals of that State, and the alleged offender is found in the territory of that State, except that the provisions of article 9, 10 and 11 shall apply in those cases."

14. PROPOSALS SUBMITTED BY THE REPUBLIC OF KOREA (A/C.6/52/WG.1/CRP.14)

Articles 2, 5, 6, 7, 8, 10, 10 bis, 11, 12, 12 bis (document A/52/37, annex I.A)

Article 2

1. Delete "intentionally" in the second line of the chapeau of paragraph 1.

2. Add "the person knew or should have known that" after "in which" in paragraph 1 (c).

Article 5

1. Insert "owned and" before "operated" in paragraph 1 (b).

2. Insert "abroad" after "that State," in paragraph 2 (a) bis.

Article 6

1. Replace "prosecution or extradition" by "investigation, criminal or extradition proceedings" in the fourth line of paragraph 1.

2. Insert "Parties" after both "the States" in the third line and "any other interested States" in the fifth line of paragraph 4.

Article 7

1. Change "option" to "optional condition" in the sixth line of paragraph 2.

Article 8

1. Add "Without prejudice to article 7, paragraph 1," at the beginning of paragraph 6.

Article 10

1. Add "or when the purpose of the transfer has been fulfilled." in paragraph 2 (b).

Article 10 bis

1. Delete "applicable provisions of" in the fifth line.

Article 11

1. Substitute "detecting and detering the use of" for "detection of" in the second line of subparagraph (c).

Article 12

1. Delete the second sentence in whole.

Article 12 bis

1. Replace "the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States." with "the purposes and principles of the Charter of the United Nations."

15. PROPOSAL SUBMITTED BY THE NETHERLANDS (A/C.6/52/WG.1/CRP.15)

Article 3 (document A/52/37, annex I.A)

Amend article 3 as follows:

"This Convention shall not apply to the delivery, placement, discharge or detonation of an explosive or other lethal device in accordance with national and international law."

16. PROPOSAL SUBMITTED BY THE SUDAN (A/C.6/52/WG.1/CRP.16)

Preamble (document A/52/37, annex I.A)

Add the following paragraph immediately after the seventh preambular paragraph:

"Further stressing that efficient implementation of relevant legal instruments could be enhanced by exchanging information voluntarily and in good faith."

17. PROPOSAL SUBMITTED BY SOUTH AFRICA (A/C.6/52/WG.1/CRP.17)

Article 8.6 bis (document A/52/37, annex I.A)

Insert a new article 8.6 bis:

"Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the person whose extradition is requested has been or would be subjected in the requesting State to torture or cruel,

inhuman or degrading treatment or punishment or if that person has not received or would not receive the minimum guarantees in criminal proceedings, as contained in article 14 of the International Covenant on Civil and Political Rights.

18. PROPOSALS SUBMITTED BY UKRAINE (A/C.6/52/WG.1/CRP.18)

Article 8, paragraphs 1 and 5 (document A/52/37, annex I.A)

I. Article 8, paragraph 1:

1. Delete "existing".

2. After "between any of the States Parties" insert the following "dealing with terrorism".

3. Delete "before entry into force of this Convention".

4. Delete the second part of this paragraph.

The paragraph would then read:

"1. The offences set forth in article 2 shall be deemed to be included as extraditable offences in any extradition treaty between States Parties dealing with terrorism."

II. Article 8, paragraph 5:

1. Delete "applicable".

2. Insert "shall be applied" instead of "are modified as".

3. Insert "incompatible" instead of "compatible".

The paragraph would then read:

"5. The provisions of all extradition treaties and arrangements between States Parties shall be applied between States Parties to the extent that they are compatible with this Convention."

19. PROPOSAL SUBMITTED BY CHINA (A/C.6/52/WG.1/CRP.19)

Article 10 (document A/52/37, annex I.A)

Add the following paragraph as paragraph 4 in article 10:

"The State to which the person is transferred shall not use any excuses, in any circumstances, to deny the obligations under the agreement on matters relating to obtaining evidence concluded with the State from which the person was transferred."

20. PROPOSALS SUBMITTED BY AUSTRIA (A/C.6/52/WG.1/CRP.20)

Article 9 (document A/52/37, annex I.A)

1. Add at the end of paragraph 2:

... "This assistance may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives."

2. Insert a new paragraph 3:

"3. Nothing in this Convention shall be interpreted as imposing an obligation to afford mutual assistance if the requested State has substantial grounds for believing that the request for mutual assistance in respect of an offence mentioned in article 2 has been made for the purpose of prosecuting or punishing a person on account of his race, religion, nationality or political opinions or that that person's position may be prejudiced for any of these reasons."

21. PROPOSAL SUBMITTED BY CHINA AND CÔTE D'IVOIRE (A/C.6/52/WG.1/CRP.21)

Article 6 (document A/52/37, annex I.A)

Paragraph 3

Delete "Subject to the provision that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under paragraph 2 are intended."

22. PROPOSAL SUBMITTED BY CHINA (A/C.6/52/WG.1/CRP.22)

Article 5 (document A/52/37, annex I.A)

In the chapeau of paragraph 2 add the wording:

"Without prejudice to the jurisdiction set forth in paragraph 1".

The chapeau would thus read:

"2. Without prejudice to the jurisdiction set forth in paragraph 1, a state party may also establish its jurisdiction over any such offence when: ...".

23. PROPOSALS SUBMITTED BY SWEDEN (A/C.6/52/WG.1/CRP.23)

Article 8, paragraph 7 and a new article 14 bis
(document A/52/37, annex I.A)

Article 8, paragraph 7

The following words should be inserted at the beginning of the paragraph: "Without prejudice to article 7 paragraph 1".

The paragraph would then read:

"7. Without prejudice to article 7, paragraph 1, none of the offences set forth in article 2 shall be regarded, for the purposes of extradition between State Parties, as a political offence or as an offence connected with a political offence or as an offence inspired by political motives."

A new article to be inserted after article 14

"Article 14 bis

"1. Any State may, at the time of signature or when depositing its instruments of ratification or accession, declare that it reserves the right to refuse extradition in respect of any offence mentioned in article 2 which it considers to be a political offence or an offence connected with a political offence or an offence inspired by political motives, provided that it undertakes to take into consideration, when evaluating the character of the offence, any particularly serious aspects of the offence, including:

(a) that it caused death or serious bodily injury; or

(b) that it created a grave risk of death or serious bodily injury; or

(c) that it created extensive destruction of property ... [depending on the final formulation of article 2, paragraph 1 (b)] ... under circumstances in which the action was likely to create a grave risk of death or serious bodily injury; or

(d) that it affected persons foreign to the motives behind it; or

(e) that cruel or vicious means have been used in the commission of the offence.

"2. Any State Party may wholly or partly withdraw a reservation it has made in accordance with the foregoing paragraph by means of a declaration addressed to the Secretary-General of the United Nations which shall become effective as from the date of its receipt.

"3. A State Party which has made a reservation in accordance with paragraph 1 of this article may not claim the application of article 8,

paragraph 7 by any other State Party; it may, however, if its reservation is partial or conditional, claim the application of article 8, paragraph 7 insofar as it has itself accepted it."

24. PROPOSALS SUBMITTED BY FINLAND (A/C.6/52/WG.1/CRP.24)

Article 8, paragraph 6 and a new article 9 bis
(document A/52/37, annex I.A)

1. Delete article 8, paragraph 6.

2. Insert a new article 9 bis:

"Article 9 bis

"1. Nothing in this Convention shall be interpreted as imposing an obligation to extradite or to afford mutual assistance if the requested State Party has substantial grounds for believing that the request received pursuant to articles 8 or 9 has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin or political opinion.

"2. In considering such requests the requested State Party may also refuse to extradite or to afford mutual assistance if it has substantial grounds for believing that compliance with the request would cause prejudice for any of the reasons set forth in paragraph 1 to any person affected by the request."

25. PROPOSAL SUBMITTED BY THE SYRIAN ARAB REPUBLIC
(A/C.6/52/WG.1/CRP.25)

New article to follow article 12 ter (A/52/37, annex I.A)

"Nothing in this Convention shall be interpreted as affecting in any way the right to self-determination, freedom and independence, as derived from the Charter of the United Nations, of peoples forcibly deprived of that right and referred to in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, particularly peoples under colonial and racist regimes or other forms of alien domination; nor the right of these peoples to struggle to that end and to seek and receive support, in accordance with the principles of the Charter and in conformity with the above-mentioned Declaration."

26. PROPOSAL SUBMITTED BY BOTSWANA (A/C.6/52/WG.1/CRP.26)

Article 2 (document A/52/37, annex I.A)

New paragraph 4

"For purposes of establishing the necessary intention the offender shall be deemed to have intended to cause the extensive destruction and/or damage if it would have resulted had the offence been completed."

27. PROPOSAL SUBMITTED BY SOUTH AFRICA AND SWITZERLAND (A/C.6/52/WG.1/CRP.27)

Article 3 (document A/52/37, annex I.A)

"This Convention does not apply to actions governed by the law of armed conflicts."

28. PROPOSAL SUBMITTED BY EGYPT (A/C.6/52/WG.1/CRP.28)

Article 12 ter (document A/52/37, annex I.A)

"Nothing in this Convention shall affect the rights and obligations under international law, in particular international humanitarian law including the right of self-determination, freedom and independence of people under colonial or other forms of alien domination or foreign occupation and the right of those peoples to struggle legitimately to this end."

29. AMENDMENT PROPOSED BY BELGIUM (A/C.6/52/WG.1/CRP.29)

Article 3 (document A/52/37, annex I.A)

Replace article 3 by the following provision:

"1. Without prejudice to the obligation of States under international law, including international humanitarian law, this Convention does not apply to activities undertaken by the military forces of a State in connection with their official duties;

"2. The Convention also does not apply to activities, during armed conflicts, conducted by other armed forces covered by and acting in accordance with international humanitarian law."

30. PROPOSALS SUBMITTED BY MEXICO (A/C.6/52/WG.1/CRP.30)

Articles 7 and 10 (document A/52/37, annex I.A)

Article 7

1. Delete paragraph 2.

Article 10

1. Redraft paragraph 1 (b) in the following terms:

"(b) The competent authorities of both States agree to the transfer and to the specific conditions that such States may deem appropriate".

2. Redraft paragraph 3 in the following terms:

"Unless the State Party from which a person is to be transferred in accordance with this article so agrees, that person, whatever his or her nationality, shall not be prosecuted or detained or subjected to any other restriction of his or her personal liberty in the territory of that Party in respect of acts or convictions anterior to his or her departure from the territory of the State from which that person was transferred".

31. REVISED TEXTS OF ARTICLES PREPARED BY THE FRIENDS OF THE CHAIRMAN (A/C.6/52/WG.1/CRP.31)

Article 4

Each State Party shall adopt such measures as may be necessary:

(a) To establish as criminal offences under its domestic law the offences set forth in article 2 of this Convention;

(b) To make those offences punishable by appropriate penalties which take into account the grave nature of those offences.

Article 5

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 when:

(a) The offence is committed in the territory of that State; or

(b) The offence is committed on board a vessel flying the flag of that State or an aircraft which is registered under the laws of that State at the time the offence is committed; or

(c) The offence is committed by a national of that State.

2. A State Party may also establish its jurisdiction over any such offence when:

(a) The offence is committed against a national of that State; or

(a) bis The offence is committed in or against a government facility of that State abroad, including an embassy or other diplomatic or consular premises of that State; or

(b) The offence is committed by a stateless person who has his habitual residence in the territory of that State; or

(c) The offence is committed in an attempt to compel that State to do or abstain from doing any act; or

(c) bis The offence is committed on board an aircraft which is operated by the Government of that State.

2 bis. Upon ratifying, accepting, approving or acceding to the Convention, each State Party shall notify the Secretary-General of the United Nations of the extent to which it has established its jurisdiction in accordance with paragraph 2. Should any change take place, the State Party concerned shall immediately notify the Secretary-General.

3-4. [See A/52/37, annex I.A]

Article 6

0. Upon receiving information that a person who has committed or who is alleged to have committed an offence under article 2 may be present in its territory, the State Party concerned shall take such measures as may be necessary under its national law to investigate the facts contained in the information.

1. Upon being satisfied that the circumstances so warrant, the State Party in whose territory the offender or alleged offender is present shall take the appropriate measures under its national law so as to ensure that person's presence for the purpose of prosecution or extradition.

3. [See A/52/37, annex I.A]

4. When a State Party, pursuant to this article, has taken a person into custody, it shall immediately notify, directly or through the Secretary-General of the United Nations, the States Parties which have established jurisdiction in accordance with article 5, paragraphs 1 and 2, and, if it considers it advisable, any other interested States Parties, of the fact that such person is in custody and of the circumstances which warrant that person's detention. The State which makes the investigation contemplated in paragraph 0 of this article shall promptly inform the said States Parties of its findings and shall indicate whether it intends to exercise jurisdiction.

Article 7

1. The State Party in the territory of which the offender or the alleged offender is present shall, in cases to which article 5 applies, if it does not extradite that person, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without delay to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any other offence of a grave nature under the law of that State.

2. [See A/52/37, annex I.A]

Article 8

1-4. [See A/52/37, annex I.A]

5. The provisions of all extradition treaties and arrangements between States Parties with regard to offences defined in this Convention are modified as between State Parties to the extent that they are incompatible with this Convention.

Article 9

[See A/52/37, annex I.A]

Article 10

1. [See A/52/37, annex I.A]

2. For purposes of this article:

(a) The State to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State from which the person was transferred;

(b) The State to which the person is transferred shall without delay and in good faith implement its obligation to return the person to the custody of the State from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States;

(c) The State to which the person is transferred shall not require the State from which the person was transferred to initiate extradition proceedings for the return of the person;

(d) The person transferred shall receive credit for service of the sentence being served in the State from which he was transferred for time spent in the custody of the State to which he was transferred.

3. [See A/52/37, annex I.A]

Article 10 bis

[See A/52/37, annex I.A]

Article 11

[See A/52/37, annex I.A]

Article 12

The State Party where the alleged offender is prosecuted shall, in accordance with its laws or applicable procedures, communicate the final outcome of the proceedings to the Secretary-General of the United Nations, who shall transmit the information to the other States Parties. This requirement shall not apply where no other State Party has jurisdiction under article 5.

Article 12 bis

[See A/52/37, annex I.A]

Article 13

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation within a reasonable time shall, at the request of one of them, be submitted to arbitration. If, within six months from the date of the request for arbitration, the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice, by application, in conformity with the Statute of the Court.

2. Each State may at the time of signature, ratification, acceptance or approval of this Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by paragraph 1 of this article with respect to any State Party which has made such a reservation.

3. [See A/52/37, annex I.A]

Article 14

1. This Convention shall be open for signature by all States until [date] at United Nations Headquarters in New York.

2. This Convention is subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations.

3. This Convention shall be open to accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 15

1. This Convention shall enter into force on the thirtieth day following the date of the deposit of the twenty-second instrument of ratification, acceptance, approval or accession with the Secretary-General of the United Nations.

2. For each State ratifying, accepting, approving or acceding to the Convention after the deposit of the twenty-second instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification, acceptance, approval or accession.

Article 16

[See A/52/37, annex I.A]

Article 17

[See A/52/37, annex I.A]

32. PREAMBLE AND REVISED TEXTS OF ARTICLES PREPARED BY THE FRIENDS OF THE CHAIRMAN (A/C.6/52/WG.1/CRP.31/Add.1)

Preamble

[See A/52/37, annex I.A]

Article 1

For the purposes of this Convention:

...

2. 'Infrastructure facility' means any publicly or privately owned facility providing or distributing services for the benefit of the public, such as water, sewage, energy, fuel or communications.

3. 'Explosive or other lethal device or substance' means:

(a) An explosive or incendiary weapon, device or substance that is designed, or has the capability, to cause death, serious bodily injury or material damage; or

(b) A weapon or device that is designed, or has the capability, to cause death, serious bodily injury or material damage through the release, dissemination or impact of toxic chemicals, biological agents or toxins or radiation or radioactive material; or

(c) A toxic chemical, biological agent or toxin, or radioactive material that has the capability to cause death, serious bodily injury or material damage through its release, dissemination or impact.

...

5. 'Place of public use' means those parts of any building, land, street, waterway, sea lane or other location that are accessible or open to members of the public, whether continuously, periodically or occasionally, and encompasses any commercial, business, cultural, historical, educational, religious, governmental, entertainment, recreational or similar place that is so accessible or open to the public.

6. 'Public transportation system' means all facilities, conveyances and instrumentalities, whether publicly or privately owned, that are used in or for publicly available services for the transportation of persons or cargo.

Article 2

1. Any person commits an offence within the meaning of this Convention if that person unlawfully and intentionally delivers, places, discharges or detonates an explosive or other lethal device or substance in, into or against a place of public use, a State or government facility, a public transportation system or an infrastructure facility:

(a) With the intent to cause death or serious bodily injury; or

(b) With the intent to cause extensive destruction of such a place, facility or system, which results in or is likely to result in major economic loss; or

[(c) deleted]

(d) Under circumstances in which that person knew or should have known that the person's action would create a state of terror among the general public.

2. Any person also commits an offence if that person attempts to commit an offence as set forth in paragraph 1.

3. Any person also commits an offence if that person:

(a) Participates as an accomplice in an offence as set forth in paragraph 1 or 2;

(b) Organizes or directs others to commit an offence as set forth in paragraph 1 or 2;

(b) bis. In any other way contributes to the commission of one or more offences as set forth in paragraph 1 or 2 by a group of persons acting with a common purpose; such contribution shall be intentional and made in the knowledge either of the purpose and the general criminal activity of the group or of the intention of the group to commit the offence or offences concerned.

Article 2 bis

This Convention shall not apply where the offence is committed within a single State, the alleged offender and the victims are nationals of that State, and the alleged offender is found in the territory of that State, except that the provisions of articles 9, 10 and 11 shall apply in those cases.

33. PROPOSAL SUBMITTED BY CHINA (A/C.6/52/WG.1/CRP.32)

Amendment to the title (A/AC.252/CRP.6)

Replace "International Convention for the Suppression of Terrorist Bombings" by "Convention for the Suppression of International Terrorist Bombings". The title would thus read:

"Convention for the Suppression of International Terrorist Bombings".

34. PROPOSAL SUBMITTED BY CHINA (A/C.6/52/WG.1/CRP.33)

Article 1 (document A/52/37, annex I.A)

Article 1, paragraph 4

"4. 'Military forces of a State' means the armed forces of a State which are organized, trained and equipped under its internal law for the primary purpose of national defence or security, and persons acting in support of those armed forces who are under their command and control."

35. PROPOSAL SUBMITTED BY THE SYRIAN ARAB REPUBLIC (A/C.6/52/WG.1/CRP.34)

Article 5 (document A/52/37, annex I.A)

"No State Party may exercise its jurisdiction in the territory of another State Party nor fulfil functions lying solely within the

jurisdiction of the authorities of that State Party in accordance with its domestic law."

36. PROPOSAL SUBMITTED BY GUATEMALA (A/C.6/52/WG.1/CRP.35)

Article 6, paragraph 4, and article 8, paragraph 4
(document A/C.6/52/WG.1/CRP.31)

(a) In paragraph 4 of article 6, replace, in the third and fourth lines, "which have established jurisdiction in accordance with article 5, paragraphs 1 and 2" with "having jurisdiction under article 5";

(b) In paragraph 4 of article 8, replace, in the fourth and fifth lines, "that have established jurisdiction in accordance with paragraphs 1 and 2 of article 5" with "having jurisdiction under article 5".

Grounds for the amendments

They make the provisions in question shorter and clearer. Moreover, they bring them into line with the second sentence of article 12.

37. PROPOSAL SUBMITTED BY CÔTE D'IVOIRE (A/C.6/52/WG.1/CRP.36)

Article 9, affecting the French version only
(document A/52/37, annex I.A)

1. Les parties s'accordent l'entraide judiciare la plus large possible dans toute enquête ou procédure pénale ou procédure d'extradition relative aux infractions prévues à l'article 2, y compris pour l'obtention des éléments de preuve dont ils disposent et qui sont nécessaires aux fins de la procédure.

2. No change.

38. PROPOSAL SUBMITTED BY BELGIUM (A/C.6/52/WG.1/CRP.37)

Article 5 (document A/C.6/52/WG.1/CRP.31)

Paragraph 2 bis

"Upon ratifying, accepting, approving or acceding to the Convention, each State Party shall notify the Secretary-General of the United Nations of the jurisdiction it has established in accordance with paragraph 2 under its laws."

39. PROPOSAL SUBMITTED BY AUSTRIA (A/C.6/52/WG.1/CRP.38)

Articles 6 and 7 (document A/C.6/52/WG.1/CRP.31)

Article 6

1. In paragraph 0, the words "Upon receiving information that a person who has committed or who is alleged to have committed" should be amended to "Upon receiving information that a person who has been convicted of having committed an offense under article 2 or who is alleged to have committed such an offence ..."

2. In paragraph 1, the word "convicted" should replace the word "offender" so that it would read "the convicted or alleged offender".

Article 7

1. In the first line of paragraph 1, the words "the offender or" should be deleted.

2. In the fourth line of paragraph 1, the word "undue" should be inserted before the word "delay".

40. PROPOSAL SUBMITTED BY BELGIUM (A/C.6/52/WG.1/CRP.39)

Article 3 (document A/52/37, annex I.A)

Replace article 3 with the following text:

"1. The Convention does not apply to acts of a State in accordance with international law, including international humanitarian law;

"2. The Convention also does not apply to acts governed by and in accordance with international law of armed conflicts."

41. PROPOSAL SUBMITTED BY NORWAY AND THE UNITED STATES OF AMERICA (A/C.6/52/WG.1/CRP.40)

Article 2 bis (document A/C.6/52/WG.1/CRP.31/Add.1)

"This Convention shall not apply where the offence is committed within a single State, the alleged offender and the victims are nationals of that State, the alleged offender is found in the territory of that State, and no other State has a basis under article 5, paragraph 1 or article 5, paragraph 2 of this Convention to exercise jurisdiction, except that the provisions of articles 9, 10 and 11 shall apply in those cases."

42. PROPOSALS SUBMITTED BY THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA (A/C.6/52/WG.1/CRP.41)

Article 11 and a new article 11 bis
(document A/C.6/52/WG.1/CRP.31)

Article 11

After Article 11 (c) insert the following text as Article 11, paragraph 2:

"Each State Party to the Convention shall inform the Secretary-General of the United Nations of the legislative and other measures taken to implement the Convention, and communicate other relevant information. The Secretary-General shall transmit the information to the other States Parties."

New article to be inserted after article 11

"Three years after the entry into force of this Convention, or earlier if it is requested by a majority of States Parties of the Convention by submitting a proposal to this effect to the Depositary, a conference of States Parties to the Convention shall be held at ..., to review the operation and implementation of the Convention with a view to ensuring that the purposes and the provisions of the Convention are being realized.

"At intervals of three years thereafter, a majority of the Parties to the Convention may obtain, by submitting a proposal to this effect to the Depositary, the convening of further conferences with the same objective of reviewing the operation of the Treaty."

43. PROPOSAL SUBMITTED BY CANADA (A/C.6/52/WG.1/CRP.42)

Article 2 (document A/52/37, annex I.A)

New paragraph 4

"Nothing in this Convention is intended to prevent States Parties from enacting stricter measures than those provided by this Article."

44. PROPOSAL SUBMITTED BY THE NETHERLANDS
(A/C.6/52/WG.1/CRP.43)

New preambular paragraph (document
A/C.6/52/WG.1/CRP.31/Add.1)

New preambular paragraph

"Reiterating that criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons are in any circumstance unjustifiable, whatever the considerations

of a political, philosophical, ideological, racial, ethnic, religious or other nature that may be invoked to justify them,"

(Source: General Assembly resolution 51/210, para. 2)

45. PROPOSAL SUBMITTED BY THE RUSSIAN FEDERATION (A/C.6/52/WG.1/CRP.44)

Article 2 (document A/C.6/52/WG.1/CRP.31/Add.1)

Replace paragraph 1 (d) with the following:

"With the intent to [seriously] intimidate the general public;"

46. PREAMBLE AND REVISED TEXTS OF ARTICLES PREPARED BY THE FRIENDS OF THE CHAIRMAN (A/C.6/52/WG.1/CRP.45)

Preamble

[See A/52/37, annex I.A]

Article 1

For the purposes of this Convention:

1. "State or government facility" includes any permanent or temporary facility or conveyance that is used or occupied by representatives of a State, members of Government, the legislature or the judiciary or by officials or employees of a State or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties.

2. [See A/C.6/52/WG.1/CRP.31/Add.1]

3. "Explosive or other lethal device" means:

(a) An explosive or incendiary weapon or device that is designed, or has the capability, to cause death or serious bodily injury; or

(b) A weapon or device that is designed, or has the capability, to cause death or serious bodily injury through the release, dissemination or impact of toxic chemicals, biological agents or toxins or radiation or radioactive material.

...

5-6. [See A/C.6/52/WG.1/CRP.31/Add.1]

Article 2

1. Any person commits an offence within the meaning of this Convention if that person unlawfully and intentionally delivers, places, discharges or detonates an explosive or other lethal device or substance in, into or against a place of public use, a State or government facility, a public transportation system or an infrastructure facility:

(a) With the intent to cause death or serious bodily injury; or

(b) With the intent to cause extensive destruction of such a place, facility or system, where such destruction results in or is likely to result in major economic loss; or

2-3. [See A/C.6/52/WG.1/CRP.31/Add.1]

Article 2 bis

This Convention shall not apply where the offence is committed within a single State, the alleged offender and the victims are nationals of that State, and the alleged offender is found in the territory of that State and no other State has a basis under article 5, paragraph 1, or article 5, paragraph 2, of this Convention to exercise jurisdiction, except that the provisions of articles 9, 10 and 11 shall, as appropriate, apply in those cases.

Article 4

[See A/C.6/52/WG.1/CRP.31]

Article 4 bis

Each State Party shall adopt such measures as may be necessary to ensure that criminal acts within the scope of the present Convention, in particular where they are intended or calculated to provoke a state of terror in the general public or in a group of persons or particular persons, are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic or religious nature and are punished by penalties consistent with their grave nature.

Article 5

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 when:

(a) The offence is committed in the territory of that State; or

(b) The offence is committed on board a vessel flying the flag of that State or an aircraft which is registered under the laws of that State at the time the offence is committed; or

(c) The offence is committed by a national of that State.

2. A State Party may also establish its jurisdiction over any such offence when:

(a) The offence is committed against a national of that State; or

(a) bis The offence is committed against a State or government facility of that State abroad, including an embassy or other diplomatic or consular premises of that State; or

(b) The offence is committed by a stateless person who has his or her habitual residence in the territory of that State; or

(c) The offence is committed in an attempt to compel that State to do or abstain from doing any act; or

(c) bis The offence is committed on board an aircraft which is operated by the Government of that State.

2 bis. Upon ratifying, accepting, approving or acceding to the Convention, each State Party shall notify the Secretary-General of the United Nations of the jurisdiction it has established in accordance with paragraph 2 under its laws. Should any change take place, the State Party concerned shall immediately notify the Secretary-General.

3-4. [See A/52/37, annex I.A]

Article 5 bis

A State Party shall not undertake in the territory of another State Party the exercise of jurisdiction and performance of functions which are exclusively reserved for the authorities of that other State Party by its domestic law.

Article 6

0-1. [See A/C.6/52/WG.1/CRP.31]

2-3. [See A/52/37, annex I.A]

3 bis. The provisions of paragraphs 2 and 3 of this article shall be without prejudice to the right of any State Party having a claim to jurisdiction in accordance with article 5 (1) (c) to invite the International Committee of the Red Cross to communicate with and visit the alleged offender.

4. [See A/C.6/52/WG.1/CRP.31]

Article 7

1. The State Party in the territory of which the offender or the alleged offender is present shall, in cases to which article 5 applies, if it does not extradite that person, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without undue delay to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any other offence of a grave nature under the law of that State.

2. [See A/52/37, annex I.A]

Article 8

1-4. [See A/52/37, annex I.A]

5. The provisions of all extradition treaties and arrangements between States Parties with regard to offences defined in this Convention shall be deemed to be modified as between State Parties to the extent that they are incompatible with this Convention.

Article 9

[See A/52/37, annex I.A]

Article 9 bis

None of the offences set forth in article 2 shall be regarded, for the purposes of extradition or mutual legal assistance, as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

Article 9 ter

Nothing in this Convention shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance, if the requested State Party has substantial grounds for believing that the request for extradition for offences set forth in article 2 or for mutual legal assistance with respect to such offences has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin or political opinion or that compliance with the request would cause prejudice to that person's position for any of these reasons.

Article 10

1. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of testimony, identification or otherwise providing assistance in obtaining evidence for the investigation or prosecution of offences under this Convention may be transferred if the following conditions are met:

(a) The person freely gives his or her informed consent; and

(b) The competent authorities of both States agree, subject to such conditions as those States may deem appropriate.

2. For purposes of this article:

(a) The State to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State from which the person was transferred;

(b) The State to which the person is transferred shall without delay and in good faith implement its obligation to return the person to the custody of the State from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States;

(c) The State to which the person is transferred shall not require the State from which the person was transferred to initiate extradition proceedings for the return of the person;

(d) The person transferred shall receive credit for service of the sentence being served in the State from which he was transferred for time spent in the custody of the State to which he was transferred.

3. Unless the State Party from which a person is to be transferred in accordance with this article so agrees, that person, whatever his or her nationality, shall not be prosecuted or detained or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts or convictions anterior to his or her departure from the territory of the State from which such person was transferred.

Article 10 bis

[See A/52/37, annex I.A]

Article 11

[See A/52/37, annex I.A]

Article 12

The State Party where the alleged offender is prosecuted shall, in accordance with its laws or applicable procedures, communicate the final outcome of the proceedings to the Secretary-General of the United Nations, who shall transmit the information to the other States Parties.

Article 12 bis

[See A/52/37, annex I.A]

Article 13

1-2. [See A/C.6/52/WG.1/CRP.31]

3. [See A/52/37, annex I.A]

Article 14

1. This Convention shall be open for signature by all States from [date] until [date] at United Nations Headquarters in New York.

2-3. [See A/C.6/52/WG.1/CRP.31]

Article 15

1-2. [See A/C.6/52/WG.1/CRP.31]

Article 16

[See A/52/37, annex I.A]

Article 17

[See A/52/37, annex I.A]

47. PREAMBLE AND REVISED TEXTS OF ARTICLES PREPARED BY THE FRIENDS OF THE CHAIRMAN (A/C.6/52/WG.1/CRP.45/Rev.1)

Preamble

[See A/52/37, annex I.A]

Article 1

For the purposes of this Convention:

1. [See A/C.6/52/WG.1/CRP.45]

2. [See A/C.6/52/WG.1/CRP.31/Add.1]

3. "Explosive or other lethal device" means:

(a) An explosive or incendiary weapon or device that is designed, or has the capability, to cause death, serious bodily injury or substantial material damage; or

(b) A weapon or device that is designed, or has the capability, to cause death, serious bodily injury or substantial material damage through the release, dissemination or impact of toxic chemicals, biological agents or toxins or similar substances or radiation or radioactive material.

...

5. "Place of public use" means those parts of any building, land, street, waterway or other location that are accessible or open to members of the public, whether continuously, periodically or occasionally, and encompasses any commercial, business, cultural, historical, educational, religious, governmental, entertainment, recreational or similar place that is so accessible or open to the public.

6. [See A/C.6/52/WG.1/CRP.31/Add.1]

Article 2

1. Any person commits an offence within the meaning of this Convention if that person unlawfully and intentionally delivers, places, discharges or detonates an explosive or other lethal device in, into or against a place of public use, a State or government facility, a public transportation system or an infrastructure facility:

(a) With the intent to cause death or serious bodily injury; or

(b) With the intent to cause substantial destruction of such a place, facility or system, where such destruction results in or is likely to result in major economic loss.

2. [See A/C.6/52/WG.1/CRP.31/Add.1]

3. Any person also commits an offence if that person:

(a) Participates as an accomplice in an offence as set forth in paragraph 1 or 2; or

(b) Organizes or directs others to commit an offence as set forth in paragraph 1 or 2; or

(b) bis. In any other way contributes to the commission of one or more offences as set forth in paragraph 1 or 2 by a group of persons acting with a common purpose; such contribution shall be intentional and either be made with the aim of furthering the general criminal activity or purpose of the group or be made in the knowledge of the intention of the group to commit the offence or offences concerned.

Article 2 bis

This Convention shall not apply where the offence is committed within a single State, the alleged offender and the victims are nationals of that State, the alleged offender is found in the territory of that State and no other State has a basis under article 5, paragraph 1, or article 5, paragraph 2, of this Convention to exercise jurisdiction, except that the provisions of articles 9 to 11 shall, as appropriate, apply in those cases.

Article 4

[See A/C.6/52/WG.1/CRP.31]

Article 4 bis

Each State Party shall adopt such measures as may be necessary, including, where appropriate, in its domestic legislation, to ensure that criminal acts within the scope of the present Convention, in particular where they are intended or calculated to provoke a state of terror in the general public or in a group of persons or particular persons, are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature and are punished by penalties consistent with their grave nature.

Article 5

1-2 bis. [See A/C.6/52/WG.1/CRP.45]

3. [See A/52/37, annex I.A]

Article 6

0-1. [See A/C.6/52/WG.1/CRP.31]

2-3. [See A/52/37, annex I.A]

3 bis. The provisions of paragraphs 2 and 3 of this article shall be without prejudice to the right of any State Party having a claim to jurisdiction in accordance with article 5, paragraph (1) (c) or 2 (b), to invite the International Committee of the Red Cross to communicate with and visit the alleged offender.

4. [See A/C.6/52/WG.1/CRP.31]

Article 7

1. The State Party in the territory of which the alleged offender is present shall, in cases to which article 5 applies, if it does not extradite that person, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without undue delay to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any other offence of a grave nature under the law of that State.

2. [See A/52/37, annex I.A]

Article 8

1-4. [See A/52/37, annex I.A]

5. [See A/C.6/52/WG.1/CRP.45]

Article 9

[See A/52/37, annex I.A]

Article 9 bis

[See A/C.6/52/WG.1/CRP.45]

Article 9 ter

[See A/C.6/52/WG.1/CRP.45]

Article 10

1. [See A/C.6/52/WG.1/CRP.45]

2. For purposes of this article:

(a) The State to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State from which the person was transferred;

(b) The State to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States;

(c) The State to which the person is transferred shall not require the State from which the person was transferred to initiate extradition proceedings for the return of the person;

(d) The person transferred shall receive credit for service of the sentence being served in the State from which he was transferred for time spent in the custody of the State to which he was transferred.

3. [See A/C.6/52/WG.1/CRP.45]

Article 10 bis

[See A/52/37, annex I.A]

Article 11

States Parties shall cooperate in the prevention of the offences set forth in article 2, particularly:

(a) By taking all practicable measures, including, if necessary, adapting their national legislation, to prevent and counter preparations in their respective territories for the commission of those offences within or outside their territories, including measures to prohibit in their territories illegal activities of persons, groups and organizations that encourage, instigate, organize, knowingly finance or engage in the perpetration of acts mentioned in article 2;

(b) By exchanging accurate and verified information in accordance with their national law, and coordinating administrative and other measures taken as appropriate to prevent the commission of offences set forth in article 2;

(c) Where appropriate, through research and development regarding methods of detection of explosives and other harmful substances that can cause death or injury, consultations on the development of standards for marking explosives in order to identify their origin in post-blast investigations, exchange of

information on preventive measures, cooperation and transfer of technology, equipment and related materials.

Article 12

[See A/C.6/52/WG.1/CRP.45]

Article 12 bis

[See A/52/37, annex I.A]

Article 12 bis bis

Nothing in this Convention entitles a State Party to undertake in the territory of another State Party the exercise of jurisdiction and performance of functions which are exclusively reserved for the authorities of that other State Party by its domestic law.

Article 13

1-2. [See A/C.6/52/WG.1/CRP.31]

3. [See A/52/37, annex I.A]

Article 14

1. [See A/C.6/52/WG.1/CRP.45]

2-3. [See A/C.6/52/WG.1/CRP.31]

Article 15

1-2. [See A/C.6/52/WG.1/CRP.31]

Article 16

[See A/52/37, annex I.A]

Article 17

[See A/52/37, annex I.A]

48. REVISED TEXTS OF THE PREAMBLE AND ARTICLES PREPARED BY THE FRIENDS OF THE CHAIRMAN (A/C.6/52/WG.1/CRP.45/Rev.2)

The States Parties to this Convention,

Having in mind the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of good-neighbourliness and friendly relations and cooperation among States,

Deeply concerned about the worldwide escalation of acts of terrorism in all its forms and manifestations,

Recalling the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations,

Recalling also the Declaration on Measures to Eliminate International Terrorism annexed to General Assembly resolution 49/60 of 9 December 1994, in which, inter alia, "[t]he States Members of the United Nations solemnly reaffirm their unequivocal condemnation of all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomever committed, including those which jeopardize the friendly relations among States and peoples and threaten the territorial integrity and security of States",

Noting that the Declaration also encouraged States "to review urgently the scope of the existing international legal provisions on the prevention, repression and elimination of terrorism in all its forms and manifestations, with the aim of ensuring that there is a comprehensive legal framework covering all aspects of the matter",

Recalling further the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism annexed to General Assembly resolution 51/210 of 17 December 1996,

Noting also that terrorist attacks by means of explosives or other incendiary or lethal devices have become increasingly widespread,

Noting further that existing multilateral legal provisions do not adequately address these attacks,

Being convinced of the urgent need to enhance international cooperation between States in devising and adopting effective and practical measures for the prevention of such acts of terrorism, and for the prosecution and punishment of their perpetrators,

Considering that the occurrence of such acts is a matter of grave concern to the international community as a whole,

Have agreed as follows:

Article 1

For the purposes of this Convention:

1. [See A/C.6/52/WG.1/CRP.45]

2. [See A/C.6/52/WG.1/CRP.31/Add.1]

3-5. [See A/C.6/52/WG.1/CRP.45/Rev.1]

6. [See A/C.6/52/WG.1/CRP.31/Add.1]

Article 2

1. Any person commits an offence within the meaning of this Convention if that person unlawfully and intentionally delivers, places, discharges or detonates an explosive or other lethal device in, into or against a place of public use, a State or government facility, a public transportation system or an infrastructure facility:

(a) With the intent to cause death or serious bodily injury; or

(b) With the intent to cause extensive destruction of such a place, facility or system, where such destruction results in or is likely to result in major economic loss.

2. [See A/C.6/52/WG.1/CRP.31/Add.1]

3. [See A/C.6/52/WG.1/CRP.45/Rev.1]

Article 2 bis

[See A/C.6/52/WG.1/CRP.45/Rev.1]

Article 3

This Convention shall not apply to activities of armed forces governed by international humanitarian law, nor shall it apply to activities of military forces of a State, including those undertaken through international or regional arrangements, carried out in pursuit of the purposes and principles of the Charter of the United Nations.

Article 4

[See A/C.6/52/WG.1/CRP.31]

Article 4 bis

Each State Party shall adopt such measures as may be necessary, including, where appropriate, domestic legislation, to ensure that criminal acts within the scope of the present Convention, in particular where they are intended or calculated to provoke a state of terror in the general public or in a group of persons or particular persons, are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature and are punished by penalties consistent with their grave nature.

Article 5

1-2 bis. [See A/C.6/52/WG.1/CRP.45]

3-4. [See A/52/37, annex I.A]

Article 6

0-1. [See A/C.6/52/WG.1/CRP.31]

2-3. [See A/52/37, annex I.A]

3 bis. [See A/C.6/52/WG.1/CRP.45/Rev.1]

4. [See A/C.6/52/WG.1/CRP.31]

Article 7

1. [See A/C.6/52/WG.1/CRP.45/Rev.1]

2. [See A/52/37, annex I.A]

Article 8

1-4. [See A/52/37, annex I.A]

5. [See A/C.6/52/WG.1/CRP.45]

Article 9

[See A/52/37, annex I.A]

Article 9 bis

[See A/C.6/52/WG.1/CRP.45]

Article 9 ter

[See A/C.6/52/WG.1/CRP.45]

Article 10

1. [See A/C.6/52/WG.1/CRP.45]

2. [See A/C.6/52/WG.1/CRP.45/Rev.1]

3. [See A/C.6/52/WG.1/CRP.45]

Article 10 bis

[See A/52/37, annex I.A]

Article 11

[See A/C.6/52/WG.1/CRP.45/Rev.1]

Article 12

[See A/C.6/52/WG.1/CRP.45]

Article 12 bis

[See A/52/37, annex I.A]

Article 12 bis bis

[See A/C.6/52/WG.1/CRP.45/Rev.1]

Article 12 ter

Nothing in this Convention shall affect other rights and obligations under international law, in particular the purposes and principles of the Charter of the United Nations and international humanitarian law.

Article 13

1-2. [See A/C.6/52/WG.1/CRP.31]

3. [See A/52/37, annex I.A]

Article 14

1. [See A/C.6/52/WG.1/CRP.45]

2-3. [See A/C.6/52/WG.1/CRP.31]

Article 15

1-2. [See A/C.6/52/WG.1/CRP.31]

Article 16

[See A/52/37, annex I.A]

Article 17

[See A/52/37, annex I.A]

49. PROPOSAL SUBMITTED BY SWITZERLAND (A/C.6/52/WG.1/CRP.46)

Article 2 (document A/C.6/52/WG.1/CRP.45)

Redraft paragraph 3 (b) bis in the following terms:

"In any other way contributes to the commission of one or more offences as set forth in paragraph 1 or 2 by a group of persons acting with a common purpose; such contribution shall be intentional and either aim to further the general criminal activity or purpose of the group or made in the knowledge of the intention of the group to commit the offence or offences concerned."

50. PROPOSAL SUBMITTED BY THE UNITED STATES OF AMERICA (A/C.6/52/WG.1/CRP.47)

Article 2 bis (A/C.6/52/WG.1/CRP.45)

Change the concluding phrase "shall, as appropriate, apply in those cases" to read "shall remain applicable in those cases".

51. PROPOSAL SUBMITTED BY SPAIN (A/C.6/52/WG.1/CRP.48)

Article 9 bis (document A/C.6/52/WG.1/CRP.45/Rev.1)

Fifth line

1. Replace "such an offence" by "the offences set forth in article 2".

2. Replace "on the sole ground" by "on the ground".

52. PROPOSAL SUBMITTED BY THE UNITED STATES OF AMERICA (A/C.6/52/WG.1/CRP.49)

Article 3 (document A/C.6/52/WG.1/CRP.45/Rev.2)

Replace the text of the article with the following:

"This Convention does not apply to activities of armed forces during an armed conflict, as those terms are understood under the international law of armed conflict, which are governed by that law, or to activities of military forces of a State (including those acting through international or regional arrangements) which are undertaken in connection with their official duties."

53. PROPOSAL SUBMITTED BY AUSTRALIA (A/C.6/52/WG.1/CRP.50)

Article 3 (A/C.6/52/WG.1/CRP.45/Rev.2)

"This Convention does not apply to the activities of the military forces of a State during circumstances regulated by the international law of armed conflict, or to the official activities of the military forces of a State including law enforcement, evacuation operations, peace operations and any other actions taken in accordance with the laws of self-defence."

54. PROPOSAL SUBMITTED BY GERMANY (A/C.6/52/WG.1/CRP.51)

Article 3 (document A/C.6/52/WG.1/CRP.45/Rev.2)

"This Convention does not apply to activities of armed forces during an armed conflict as those terms are understood under the international law of armed conflict, which are governed by that law, nor shall it apply to activities of military forces of a State including those undertaken through the United Nations, international or regional arrangements carried out in accordance with the purposes and principles of the Charter of the United Nations."

55. PROPOSAL SUBMITTED BY THE ISLAMIC REPUBLIC OF IRAN (A/C.6/52/WG.1/CRP.52)

Article 3 (document A/C.6/52/WG.1/CRP.45/Rev.2)

"This Convention shall not apply to the activities of military forces of a State in an armed conflict, nor shall it apply to the activities of military forces of a State undertaken in accordance with the Charter of the United Nations."

56. PROPOSAL SUBMITTED BY THE HOLY SEE (A/C.6/52/WG.1/CRP.53)

Article 3 (A/C.6/52/WG.1/CRP.45/Rev.2)

Insert "legitimate" before "pursuit".

57. PROPOSAL SUBMITTED BY THE REPUBLIC OF KOREA (A/C.6/52/WG.1/CRP.54)

Article 3 (A/C.6/52/WG.1/CRP.45/Rev.2)

Amend the article to read as follows:

"1. This Convention does not apply to activities of armed forces during an armed conflict, as those terms are understood under the law of armed conflict, which are governed by that law, or to activities of military forces of a State which are undertaken in connection with their official duties, [such as self-defence, enforcement action, humanitarian relief operation and peacekeeping operations which are carried out in conformity with the relevant provisions of the Charter of the United Nations].

"2. Nothing in this article shall prejudge the legality of such activities under international law nor preclude the States Parties from applying other relevant principles of international law to those activities."

58. PROPOSAL SUBMITTED BY COSTA RICA (A/C.6/52/WG.1/CRP.55)

Article 3 (A/C.6/52/WG.1/CRP.45/Rev.2)

Amend the article to read as follows:

"This Convention does not apply to activities of armed forces during an armed conflict, as those terms are understood under the international law of armed conflicts, which are governed by that law, or to activities of military forces of a State (including those acting through international or regional arrangements in accordance with their own constituent instruments) which are undertaken in the exercise of their official duties and the rights and obligations of States under the Charter of the United Nations."

59. PROPOSAL SUBMITTED BY NEW ZEALAND*
(A/C.6/52/WG.1/CRP.56)

Article 3 (document A/C.6/52/WG.1/CRP.45/Rev.2)

"This Convention shall not apply to activities of armed forces governed by international humanitarian law, nor shall it apply to activities of military forces of a State, including those undertaken through international or regional arrangements, carried out in pursuit of the purposes and principles of the Charter of the United Nations."

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* This reproduces text presented by the Friends of the Chairman for article 3 as contained in CRP.45/Rev.2 of 2 October 1997, reflecting, in the view of the delegation of New Zealand, the positions of most delegations.

UNITED NATIONS

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SIXTH COMMITTEE
Agenda item 146 (c)

UNITED NATIONS DECADE OF INTERNATIONAL LAW

Brunei Darussalam, Colombia, Guatemala, Italy, Kyrgyzstan, Malaysia, Mongolia, Nepal, Qatar, San Marino, Singapore, Slovenia, Solomon Islands, Sudan, the former Yugoslav Republic of Macedonia and Viet Nam: draft resolution

Draft guiding principles for international negotiations

The General Assembly,

Recalling the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of cooperation among States,

Taking into account the objectives of the United Nations Decade of International Law,

Reaffirming the provisions of the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,[1]

Recalling Article 13, paragraph 1 (a), of the Charter of the United Nations, whereby the General Assembly is called upon to initiate studies and make recommendations for the purpose of promoting international cooperation in the political field and encouraging the progressive development of international law and its codification,

Proceeding from the fact that in their negotiations States are guided in general by the principles of international law,

[1] Resolution 2625 (XXV), annex.

Bearing in mind the increasing role that constructive and effective negotiations could play in attaining the noble purposes of the Charter of the United Nations by contributing to the management of international relations, the peaceful settlement of disputes and the creation of new international norms of conduct of States,

Convinced that the identification and harmonization of guiding principles for international negotiations would contribute to enhancing the predictability of negotiating parties, reducing uncertainty and promoting an atmosphere of trust at negotiations,

Convinced also that setting a minimum standard of conduct for negotiating parties could induce them to act in accordance therewith, as well as offer them some leverage for requiring other parties to act likewise,

Having considered the item entitled "Draft guiding principles for international negotiations",

1. Underlines the importance of conducting effective negotiations in managing international relations and the peaceful settlement of disputes as well as in the codification and progressive development of international law;

2. Takes note of the "Draft guiding principles for international negotiations" contained in document A/52/141;

3. Takes note also of the comments and proposals made during the consideration of the item, including the need for further consideration of the item to elaborate the above-mentioned principles;

4. Decides to refer the consideration of this item to the Working Group on the United Nations Decade of International Law;

5 Invites all States and relevant international organizations to submit to the Secretary-General, before 15 July 1998, comments and suggestions on the content of the draft guiding principles for international negotiations;

6. Requests the Secretary-General to transmit the comments and suggestions mentioned in paragraphs 3 and 5 above to the Working Group for its substantive consideration during the fifty-third session of the General Assembly;

7. Decides to include in the provisional agenda of its fifty-third session under the item entitled "United Nations Decade of International Law" the sub-item entitled "Draft guiding principles for international negotiations".